

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**SPECIAL CIVIL APPLICATION No. 11459 of 2000****For Approval and Signature:****HON'BLE MR JUSTICE KS JHAVERI**

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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GUJARAT SHEEP & WOOL DEVELOPMENT CORPORATION LTD. & 1 - Petitioner(s)
Versus
GOVINDBHAI PANCHABHAI - Respondent(s)

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Appearance :

MR PV HATHI for Petitioner No(s).: 1,2.
MR KV GADHIA for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI
Date : 19/07/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 30th April, 1999 passed by the Labour Court, Amreli in Reference [L.C.J.] No. 78/99, whereby the Labour Court has directed the petitioner to reinstate the respondent in service on his original post with 70%

back wages.

2. The short facts of the case are that the respondent was working on a daily wage basis for a particular scheme. Since the scheme under which the respondent was working was over, his services came to end w.e.f. 1st July, 1988. Being aggrieved by the said action, the respondent raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after appreciating the materials produced before it passed the impugned award. Pursuant to that the petitioner under Section 26A of the Industrial Disputes Rules, 1966 preferred an application being Misc. Application No. 3/99, which came to be rejected vide order dated 2nd May, 2000. Hence, this petition.

3. Mr. Hathi learned counsel for the petitioner has submitted that the respondent is already reinstated in service. He has contended that the Labour Court has committed an error in awarding 70% back wages *inasmuch* as the respondent was working on a daily wage basis. Mr. Hathi has further contended that though the respondent himself has admitted in his evidence that he was working as daily wager and earning Rs.150-200/-, the

Labour Court ought not to have awarded back wages to the extent of 70%.

4. I have heard the learned counsel for the parties and have perused the materials produced on record. Since the respondent has already been reinstated in service, the only question which is now required to be considered is with regard to grant of back wages.

5. However, the Labour Court while granting back wages has not given any cogent reasons. Apart from that though the respondent has admitted in his evidence that he is gainfully employed, the Labour Court has granted 70% back wages. In view of the principle laid down by the Apex Court "No Work No Pay", grant of back wages was not justified. Thus, the impugned order of the Labour Court qua the back wages is required to be quashed and set aside.

6. In the result, the petition is partly allowed. The award dated 30th April, 1999 passed by the Labour Court, Amreli in Reference [L.C.J.] No. 78/99, qua the direction with regard to the back wages is quashed and set aside. The rest of the award is confirmed. Rule is

made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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